

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

GREGORY GOULD, }
Plaintiff, }
v. } Civil Action No. 07-55 Erie
JEFFREY BEARD, et al., }
Defendants. }

MEMORANDUM ORDER

This civil rights action was received by the Clerk of Court on March 27, 2007 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 87], filed on September 16, 2009, recommended that Defendants' partial motion to dismiss [Doc. No. 67] be granted. The parties were allowed ten (10) days from the date of service to file objections. Thereafter, this Court adopted the Magistrate's Report and Recommendation on October 8, 2009 [Doc. No. 89]. Plaintiff subsequently filed objections to the Magistrate Judge's Report and Recommendation, stating, *inter alia*, that he had not received a copy of the Defendants' partial motion or brief in support [Doc. No. 90]. By Order dated October 16, 2009, this Court vacated its October 8, 2009 Order, and granted the Plaintiff thirty (30) days to respond to the Defendants' partial motion to dismiss [Doc. No. 95]. Plaintiff thereafter filed a response to the Defendants' partial motion to dismiss on November 23, 2009 [Doc. No. 101] and the Defendants filed a reply on November 24, 2009 [Doc. No. 102]. After de novo review of the motion and documents in the case, together with the Report and Recommendation, the objections thereto, the Plaintiff's response to the motion and the Defendants' reply, the following order is entered:

AND NOW, this 6th day of January, 2010;

IT IS HEREBY ORDERED that the Defendants' partial motion to dismiss [Doc.

No. 67] is GRANTED.

The Report and Recommendation [Doc. No. 87] of Magistrate Judge Baxter, filed on September 16, 2009 is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, U.S. Magistrate Judge